

Before the
Administrative Hearing Commission
State of Missouri



DIRECTOR OF DEPARTMENT OF
PUBLIC SAFETY,

Petitioner,

v.

JARROD D. JARVIS,

Respondent.

No. 12-2048 PO

DECISION

Jarrold D. Jarvis is subject to discipline because he committed a criminal offense.

Procedure

The Director of the Department of Public Safety (“the Director”) filed a complaint on November 20, 2012, seeking to discipline Jarvis’ peace officer license. Jarvis was served with our notice of complaint and notice of hearing on November 23, 2012, by certified mail, but did not answer or otherwise respond.

The Director filed a motion for summary decision on February 20, 2013. We gave Jarvis until March 13, 2013 to respond, but he did not respond. Under Regulation 1 CSR 15-3.446(6), we may decide this case without a hearing if the Director establishes facts that (a) Jarvis does not genuinely dispute and (b) entitle the Director to a favorable decision. Facts may be established

by admissible evidence such as a stipulation, pleading of the adverse party, discovery response of the adverse party, affidavit, or any other evidence admissible under law.¹

Our rules require Jarvis to file an answer.² We may order, on our own motion, allegations pled in a complaint to be deemed admitted by a party failing to answer the complaint.³ We find Jarvis in violation of our rules for failing to answer the Director's complaint and deem the allegations in the complaint admitted by Jarvis. By failing to respond to the Director's motion, Jarvis also has not disputed the evidence the Director submitted in support of his motion for summary decision. Therefore, we make our findings of fact from the factual allegations in the Director's complaint deemed admitted by Jarvis and the undisputed evidence the Director submitted in support of his motion for summary decision.

The Director cites the request for admissions that was served on Jarvis on January 9, 2013. Jarvis did not respond to the request. Under Supreme Court Rule 59.01, the failure to answer a request for admissions establishes the matters asserted in the request, and no further proof is required.⁴ That rule applies to all parties, including those acting *pro se*.⁵ Section 536.073⁶ and our Regulation 1 CSR 15-3.420(1) apply that rule to this case. Therefore, the following facts are not disputed.

Findings of Fact

1. Jarvis is licensed as a peace officer by the Director.
2. Jarvis' license is current and active, and has been at all times since January 2009.
3. For a period of at least two years preceding December 8, 2011, Jarvis served as treasurer for the Liberty United Methodist Church ("the church") in Monnet, Missouri.

¹Regulation 1 CSR 15-3.446(6)(B).

²Regulation 1 CSR 15-3.380(1).

³Regulation 1 CSR 15-3.380(7) and 1 CSR 15-3.425.

⁴*Killian Constr. Co. v. Tri-City Constr. Co.*, 693 S.W.2d 819, 827 (Mo. App., W.D. 1985).

⁵*Research Hosp. v. Williams*, 651 S.W.2d 667, 669 (Mo. App., W.D. 1983).

⁶RSMo 2000. Statutory references, unless otherwise noted, are to the 2012 Supplement to the Revised Statutes of Missouri.

4. Over the two-year period preceding December 8, 2011, Jarvis appropriated money from the church with the purpose to deprive the church thereof, and without the church's consent and by means of deceit.

Conclusions of Law

We have jurisdiction to hear this case.⁷ The Director has the burden of proving that Jarvis has committed an act for which the law allows discipline.⁸ The Director alleges that there is cause for discipline under § 590.080.1(2):

1. The director shall have cause to discipline any peace officer licensee who:

* * *

(2) Has committed any criminal offense, whether or not a criminal charge has been filed[.]

Section 570.030.1 states:

A person commits the crime of stealing if he or she appropriates property or services of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion.

Jarvis appropriated money from the church during a two-year period of time with the purpose to deprive the church thereof and without the church's consent and by means of deceit. Therefore, Jarvis committed the crime of stealing and is subject to discipline under § 590.080.1(2).

Summary

The Director's motion for summary decision is granted.

The hearing presently scheduled for May 28, 2013, is canceled.

SO ORDERED on April 11, 2013.

/s/ Nimrod T. Chapel, Jr.
NIMROD T. CHAPEL, JR.
Commissioner

⁷Section 590.080.2.

⁸*Missouri Real Estate Comm'n v. Berger*, 764 S.W.2d 706, 711 (Mo. App., E.D. 1989).